

A meeting of the Jasper County Plan Commission was held Monday, February 27, 2017 at 7:00 pm in the Commissioners' Room of the Jasper County Courthouse, Rensselaer, Indiana. Members present: Gerrit DeVries, Sandra Putt, Kent Korniak, Vince Urbano, Jim Martin and Bryan Overstreet. Also present: Todd Sammons, Randle and Sammons, Mary Scheurich, Director of Planning and Development; Kelli Standish, Secretary. Absent were: Jim Walstra, Todd Peterson and Justin Rodibaugh.

Meeting was called to order by Board President Sandra Putt. The first order of business was the call for approval of the January 2017 minutes.

Gerrit DeVries made the motion to approve the January 2017 minutes. Motion was seconded by Bryan Overstreet and carried unanimously.

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Rezone

Cause#PC-1-17

Applicant: Robert and Connie Rice

Location: Sec.17-31-6 – Walker Twp. – 400W. & 800N. NW Corner

Use: Rezone A1 to A2

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Public hearing held pursuant to notice February 1, 2017 in the Rensselaer Republican, a daily newspaper of general circulation printed and published in Jasper County, Indiana; also pursuant to notice to adjacent landowners given by certified mail, return receipts requested. All as shown by the affidavit of Becky Coffey, Clerk of the Rensselaer Republican, and return receipts submitted by the applicant.

Robert Rice was present and stated that he is requesting to rezone his property from A1 to A2. If the property is rezoned to A2 they will then apply for a 2-lot subdivision in order to put a second home on their property for their daughter. They have approximately 11.5 acres with their existing home located on it.

Sandra Putt asked if anyone present had any opposition to the application.

Alan Purinton was present and stated that he lives next door to the applicant and wanted to know if his taxes will change if the rezone is approved. He wanted to know if there is going to be a problem with him hunting on his property since there are a lot of deer in the area?

Mary Scheurich replied that Mr. Purinton taxes will not change by the neighbor's property being rezoned.

Attorney Sammons replied that this will not prohibit you from any use of your parcel if that is what you are concerned about.

Gerrit DeVries asked Mr. Rice if he knew how they will split the property into 2-lots?

Mr. Rice replied that there is a tree line to the north of their property that they plan to split 5 acres off from that point north.

Gerrit DeVries made the motion to recommend approval for the rezone from A1 to A2 to the Board of County Commissioners. Motion was seconded by Jim Martin and carried unanimously.

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Rezone

Cause#PC-2-17

Landowner: Andrew Pitstick

Location: Sec.19-30-6 – Union Twp. - Hwy 231 N. of St.Rd. 14 W-side

Use: Rezone GC to A2

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Public hearing held pursuant to notice February 8, 2017 in the Rensselaer Republican, a daily newspaper of general circulation printed and published in Jasper County, Indiana; also pursuant to notice to adjacent landowners given by certified mail, return receipts requested. All as shown by the affidavit of Becky Coffey, Clerk of the Rensselaer Republican, and return receipts submitted by the applicant.

Andy Pitstick stated that he had his Attorney Brianna Schroeder and Mike Veenhuizen to represent him.

Attorney Brianna Schroeder stated that Mr. Pitstick is requesting to rezone his property from GC to A2. He is proposing to operate an animal farm that would have between 180-190 pigs. That is under the state limit and the county limit to be called Confined Feeding. Having that many pigs in an A2 district would be considered raising of farm animals. The comprehensive Plan and the UDO talks about some of the things we are to look at when you think about rezoning a piece of property. There are 3 big points that we should be considering. 1. The historical land use, 2. The current land use and 3. The intended land use. Existing on the property are manure lagoons and several barns. Surrounding the property is several farm fields, residential areas and several barns. The current property and some surrounding properties have been used for agricultural according to a Google map she found from 1998. The Comprehensive Plan for Jasper County identifies Mr. Pitstick's land as agricultural land in the future. On the map it is suppose to be preserved as traditional agricultural. These maps are supposed to be used to support and influence land used discussions and zoning map changes. The property Mr. Pitstick is requesting to rezone always has been and continues to be used as an agricultural use. Mr. Pitstick will be considered as raising of animals and for swine he is allowed to have up to 199 swine on his property.

Mike Veenhuizen stated that he is with Livestock engineering solutions. Mr. Pitstick bought the property in June 2016 with the intent to improve the property. There is an existing structure on the property that is close to the highway that Mr. Pitstick plans on using. Mr. Pitstick has improved the property by building another structure. Mr. Pitstick's plan to house 180 sows and gilts and 10-11 boars and they will be housed in the new building. They plan to breed 15-20 sows at a time, they will spend about 3-4 weeks

farrowing. Once the baby pigs have reached an age where they can move around they will be moved to the older building along with the sows. They will spend another 3-4 weeks there and then they will be removed from the property. He stated that the old lagoons haven't been used for several years so they would be considered as water ponds. There is not a plan to put waste water into the lagoons.

Bryan Overstreet stated that you will have a total of 180 swine total. You are not planning on putting 180 in one barn and then 30 in another.

Andy Pitstick stated that the whole property will not go over 199 pigs.

Attorney Brianna Schroeder presented a petition with 20 different neighbors that support the application.

Andy Pitstick stated that he has talked to some of the neighbors and they said they support him in what he is doing and they don't see any negative impact that this would cause.

Sandra Putt asked if anyone present had any opposition to the application.

Markus Davis was present and stated that he lives across the street from the proposed application. Mr. Pitstick's request to rezone from GC to A1 was denied and he does not see a difference in the application to rezone to A2. Can he just keep asking for different zones while he continues to run a business there? Mr. Pitstick stated that he has made improvements to the property and from what they can see from their house are doors cut off, plywood hanging and a pile of debris.

Kent Korniak asked if that is true that they have been operating a business there.

Attorney Schroeder replied that she has been in contact with Mr. Sammons and we have worked with Mary Scheurich. We think the cleanest way to do this is a rezone. We believe we have other legal recourses available to them that would be longer and messier; we believe we are a legal nonconforming use under the state statute and under county zoning. We think the cleaner and easier way is to do a rezone. As Mr. Davis did state to the board members Mr. Pitstick did come before the board about 6 months ago and there was a lot of confusion. There was some confusion as to what was the proper zoning of the property. They found some old deeds from the 70's, 80's and 90's of different properties being rezoned, we weren't sure what was being recorded. They feel they have made major changes to the proposed application that is why they made application to rezone to A2 zoning. There was a question as to if the sow and her baby pigs count individually or as one? We have found out that a sow and her babies are considered as one pig. She did state that there are currently pigs on the property.

Attorney Sammons replied that they did not want to take any enforcement action if they were going to come and make a proper rezone application.

Kent Korniak asked Mr. Sammons if there is protocol if someone is not in compliance with the current code. Should that be taken into consideration or not?

Attorney Sammons replied that it is kind of outlined in Article 9 what the Plan Commission should take into consideration in respect to the application. That's not an identified item whether they are in compliance or not. I suppose it is all open to discussion and what the board feels. There are 5 specific things that the board needs to look at and the applicant is to provide the board members with those facts. He feels that the applicant has touched a little about them and then it is up to the board to decide on the weight and value of the information. He has spoken to Attorney Schroeder regarding the animals on the property. He felt rather going through the time and effort trying to make him correct that if they intended to come before the board with a new application he was told he needed to do it early this year or we would have to take enforcement action.

Nicole Davis was present and stated that her husband is Markus Davis. The final decision from the County Commissioners was denied in October and he was told to remove the pigs after they have been there since June or July. We have been living with 190 pigs across the road for the entire time he has been asking for a zone change. He's operated, added/ brought stuff in and continues to do what he wants to with no regards to the fact that it has been stated by the board members that the property is zoned General Commercial. At what point do we actually enforce the rules? From June to October he was not told that he had to remove the animals because a decision had not been made yet, but in October the application was denied. I do not know where they received their 20 signatures from because they did not ask them. All last summer we smelled the pigs that were in the old barn. Maybe it will be a little different with the smell since they will be in the new building that is back further than the building that is close to the road, but there will still be smell since there will be pigs in the front building. If they move the baby pigs to the front of the building and still have the sows in the back she feels they will be over their 200 limit and will be considered Level 1 confinement. Which they stated they were going to do.

Mike Veenhuizen replied that the sows will farrow in the new building and after awhile they will all be moved to the older (front) building and when the sows are weaned they move back to the back building and the other pigs leave. They are not raising pigs in the front building.

Bryan Overstreet asked what the set-back's are and the rule for existing buildings.

Mike Veenhuizen replied that they are 50 feet off of Highway 231.

Attorney Schroeder replied that the existing set-back was 50 feet.

Jim Martin asked if there was anything in our code that states that a sow and her babies are considered to be one pig?

Mary Scheurich replied that we do not define pig unit in our code book.

Attorney Schroeder replied that the rule for a sow and her babies are considered as one pig that comes from the EPA and IDEM.

Bryan Overstreet asked that since the preexisting building is only 50ft from the property line, but the current set-back for an A2 district is 70 feet is there something that needs to be done?

Attorney Sammons replied that they are not requesting to put a new building up that's in violation or that the existing building makes it ok or not. If it was A2 right now he would say that it is a non conforming use.

Gerrit DeVries stated that he has gone back through the Plan Commission minutes when Mr. Pitsticks first applied. The Animal standards do require 0.1 acre per animal. So that means at the most that you would be allowed are 99 animals. If they went 190 they would need a total of 19 acres. He stated that A1 and A3 are really the only zones that allow any kind of confined feeding animals. He stated that he wished Jim Walstra was here so he could explain to us what happened in the Commissioners meeting. He does not think this is going to be a benefit to the county.

Vince Urbano stated that he respectfully disagrees with Gerrit DeVries. We are an agricultural county. Nobody wants to live by a facility like this but when you move to the country you should almost expect something like this to located there. He doesn't see what else this property would be used for. If they are doing things that they are not suppose to, then we have a problem.

Jim Martin replied that he doesn't think this is an attack on agricultural it's 9.9 acres that is zoned Commercial and he feels it should stay commercial.

Attorney Schroeder stated that she would like to clarify a misconception that seems to be an issue. There is a difference in the county code that is called "Raising of Farm Animals" and "Keeping of Animals." The Keeping of animals is where the 0.1 per animals falls under where they can only have 99 swine. Raising of Farm Animals does not have a limitation of acreage, this says you can have 199 swine. Raising of Farm Animals is a permitted use in the A2 and meets the lot size of 2 acres.

Gerrit DeVries stated that he does not believe this property was ever used as confined feeding. It was used as a hog market transfer.

Kent Korniak asked if it could be explained to him what the difference is between the Raising of Farm animals and Keeping of Farm Animals.

Attorney Sammons replied that under the permitted uses in the A2 it says Raising of Farm Animals but in the A2 district where it says "Additional Development Standards that Apply" it says Keeping of farm Animals that is where it states you can only have 99 swine.

Bryan Overstreet replied that the Keeping of Farm Animals is considered pasture and the Raising of Farm Animals is considered confinement animals.

Attorney Schroeder stated that it was their understanding that if you were raising of farm animals then you are not considered confined feeding.

Markus Davis stated that he feels from the start that Mr. Pitstick has not been honest with what his plans are going to be. He wasn't on the up and up from when he bought the property. He wanted to know why would a permit be granted to someone for a hog building when the zoning hadn't been changed for him to conform to that? Mr. Pitstick was not clear on what his intentions were going to be on the property. That is how the ball got rolling in the wrong direction. Mr. Pitstick seems to do things backwards, just like when he put a new driveway in to the back of the property without a permit and now they are putting a culvert in.

Andy Pitstick replied that he would like to see some proof from them since they say he has been dishonest about doing things. He also stated that he will be in compliance with the number of swine that will be allowed on the property. He stated that he would welcome Mary Scheurich or anyone else to the property to check and see how many animals they have on the property at any time.

Gerrit DeVries asked Mary Scheurich if she had anything that states that you have asked them to remove the animals from the property?

Attorney Schroeder stated that we received a letter from Mary Scheurich stating that the animals needed to be removed from the property after they were denied for the A1 zoning. She sent a reply letter to Attorney Sammons and Attorney Beaver with her response of why they were ok to continue to do what they were doing. She and Attorney Sammons ended up talking and sending emails back and forth to discuss the animal situation. She stated that they keep referring back to the UDO (code book) on how you make rezoning decisions under Section 9.20 (in the code book) and the future land use part of the comprehensive plan that says it should be used to support and influence the zoning map changes. Those are the directions we were given to as to what we should look at when decisions are being made.

Bryan Overstreet made the motion to recommend approval of the rezoning from GC to A2 to the Board of County Commissioner since it will be listed under raising of farm animals and under the IDEM (sow and her babies as one animal) rule he is meeting the requirements. Motion was seconded by Vince Urbano and opposed were Jim Martin, Gerrit DeVries and Sandra Putt. Motion failed with a vote of 3 members in favor and 3 members opposed.

Gerrit DeVries stated that he would like to make an additional comment. When we vote on an application one of the things is "what is the best use of the property?" As he stated before he feels that the intersection of St.Rd. 14 and Highway 231, is an

important corner. There is some businesses there and we know there is going to be some smell. There could be a gas station that may go in that area someday. We have to ask ourselves is that the best area for a hog operation to be located at? It might meet some of the criteria that our code book requires, but overall is that a good place for that to go when there are other places it would fit better? He does not feel this is the best use for this piece of property even though it may be ok to some of the things in our code book.

Gerrit DeVries made a motion that no recommendation be made to the Board of County Commissioners, due to the lack of a majority vote and no future motions. Motion was seconded by Bryan Overstreet and carried unanimously.

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Meeting is open for public comments.

There was none.

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Upon motion duly made and seconded, meeting was adjourned.

A TRUE RECORD;

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Sandra Putt, President